

 ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

ANSWER

Case Number: 09cv2288

BRIAN TRAVIS,
NICHOLAS PETER VULPIS, JR.,
DAVID HARRISON BAKER,
DANIEL SCHREIBER, and
GRANITE FINANCIAL GROUP, LLC,

Defendants.

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Defendant DAVID HARRISON BAKER ("Baker"), by and through his attorneys
GERSTEN SAVAGE LLP, for his Answer to the Complaint alleged by Plaintiff
SECURITIES AND EXCHANGE COMMISSION, states as follows:

1. Denies knowledge or information sufficient to form a belief as to the truth
of each and every allegation contained in Paragraph "1" of the Complaint to the extent
referable to other Defendants. To the extent referable to the answering Defendant, denies
each and every allegation contained in Paragraph "1" of the Complaint, and refers all
questions of law to the Court.

2. Denies knowledge or information sufficient to form a belief as to the truth
of each and every allegation contained in Paragraph "2" of the Complaint to the extent
referable to other Defendants. To the extent referable to the answering Defendant, denies
each and every allegation contained in Paragraph "2" of the Complaint.

3. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "3" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "3" of the Complaint.

4. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "4" of the Complaint.

5. Denies the allegations set forth in Paragraph "5" of the Complaint.

6. Paragraph "6" of the Complaint states an interpretation or conclusion of law to which no response is required.

7. Paragraph "7" of the Complaint states an interpretation or conclusion of law to which no response is required.

8. Paragraph "8" of the Complaint states an interpretation or conclusion of law to which no response is required.

9. Paragraph "9" of the Complaint states an interpretation or conclusion of law to which no response is required.

10. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "10" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "10" of the Complaint, and refers all questions of law to the Court.

11. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "11" of the Complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "12" of the Complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "13" of the Complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "14" of the Complaint.

15. Defendant admits the allegations contained in Paragraph "15" of the Complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "16" of the Complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "17" of the Complaint.

18. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "18" of the Complaint.

19. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "19" of the Complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "20" of the Complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "21" of the Complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "22" of the Complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "23" of the Complaint.

24. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "24" of the Complaint.

25. Denies the allegations stated in Paragraph "25" of the Complaint.

26. Denies the allegations stated in Paragraph "26" of the Complaint, but admits that JLF Funds paid a commission rate of three cents per share to Baker's broker-dealer and that the commission rate was later increased to an average of five cents per share.

27. Denies the allegations stated in Paragraph "27" of the Complaint but admits that he paid \$9,233.50 for round trip tickets for Travis and his wife from Barcelona to San Diego.

28. Denies the allegations stated in Paragraph "28" of the Complaint.

29. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "29" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "29" of the Complaint, except admits that at one time Travis solicited payment for a trip for a JLF administrative assistant.

30. Denies the allegations stated in Paragraph "30" of the Complaint, except admits that he did not inform the broker-dealer with which he was associated about his payment of travel expenses for Travis and Vulpis.

31. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "31" of the Complaint.

32. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "32" of the Complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "33" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "33" of the Complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "34" of the Complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "35" of the Complaint.

36. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "36" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "36" of the Complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "37" of the Complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "38" of the Complaint.

39. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "39" of the Complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "40" of the Complaint.

41. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “41” of the Complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “42” of the Complaint.

43. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “43” of the Complaint.

44. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “44” of the Complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “45” of the Complaint.

46. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “46” of the Complaint.

47. Defendant denies each and every allegation contained in Paragraph “47” of the Complaint.

48. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “48” of the Complaint.

49. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “49” of the Complaint.

50. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “50” of the Complaint.

51. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “51” of the Complaint.

52. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “52” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “52” of the Complaint.

53. Defendant repeats and reiterates each and every denial or knowledge or information sufficient to form a belief, denial in the form alleged, denial, and/or admission as to each of the allegations as alleged in the Complaint reiterated and re-alleged by Plaintiff in Paragraph “53” of the Complaint.

54. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “54” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “54” of the Complaint.

55. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “55” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “55” of the Complaint.

56. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “56” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “56” of the Complaint, and refers all questions of law to the Court.

57. Defendant repeats and reiterates each and every denial or knowledge or information sufficient to form a belief, denial in the form alleged, denial, and/or

admission as to each of the allegations as alleged in the Complaint reiterated and re-alleged by Plaintiff in Paragraph "57" of the Complaint.

58. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "58" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "58" of the Complaint.

59. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "59" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "59" of the Complaint.

60. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "60" of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph "60" of the Complaint, and refers all questions of law to the Court.

61. Defendant repeats and reiterates each and every denial or knowledge or information sufficient to form a belief, denial in the form alleged, denial, and/or admission as to each of the allegations as alleged in the Complaint reiterated and re-alleged by Plaintiff in Paragraph "61" of the Complaint.

62. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "62" of the Complaint.

63. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph "63" of the Complaint.

64. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “64” of the Complaint.

65. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “65” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “65” of the Complaint, and refers all questions of law to the Court.

66. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “66” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “66” of the Complaint.

67. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “67” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “67” of the Complaint, and refers all questions of law to the Court.

68. Defendant repeats and reiterates each and every denial or knowledge or information sufficient to form a belief, denial in the form alleged, denial, and/or admission as to each of the allegations as alleged in the Complaint reiterated and re-alleged by Plaintiff in Paragraph “68” of the Complaint.

69. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “69” of the Complaint.

70. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “70” of the Complaint.

71. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “71” of the Complaint.

72. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “72” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “72” of the Complaint, and refers all questions of law to the Court.

73. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “73” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “73” of the Complaint.

74. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained in Paragraph “74” of the Complaint to the extent referable to other Defendants. To the extent referable to the answering Defendant, denies each and every allegation contained in Paragraph “74” of the Complaint, and refers all questions of law to the Court.

First Affirmative Defense

75. Defendant did not act with the requisite degree of scienter necessary to create liability as alleged by Plaintiff in its complaint.

Second Affirmative Defense

76. Defendant was not unjustly enriched by his conduct alleged in the complaint, and did not receive any substantial benefit which he would not have received in the absence of such conduct.

Third Affirmative Defense

77. No person or entity suffered any cognizable damages from the conduct of Defendant alleged in the Complaint.

Fourth Affirmative Defense

78. The relief sought against Defendant in the complaint is grossly disproportionate to the conduct alleged.

Fifth Affirmative Defense

79. Plaintiff's complaint fails to allege fraud with sufficient particularity against the Defendant.

Sixth Affirmative Defense

80. Defendant received business from JLF prior to any of the payments alleged in the Complaint, and such business, both before and after the commencement of such payments, was independent of the payments and not conditioned thereupon.

Seventh Affirmative Defense

81. Plaintiff's complaint improperly groups the Defendant together with other defendants.

Eighth Affirmative Defense

82. Plaintiff's claims against the Defendant are barred by the applicable statutes of limitations.

Ninth Affirmative Defense

83. To the extent that plaintiff suffered any damages as alleged in the complaint, such damages were caused, in whole or in part, by the acts and omissions of the other defendants in this action or others.

Tenth Affirmative Defense

84. Plaintiff is barred from asserting claims in its Complaint by virtue of its failure to include a necessary party to this litigation.

Eleventh Affirmative Defense

85. Plaintiff's complaint fails to state a claim upon which relief may be granted.

RELIEF

WHEREFORE, the answering Defendant demands judgment as follows:

- A. Against Plaintiff dismissing the Complaint in its entirety;
- B. Interest, reasonable attorney fees, and the costs and disbursements of this action; and
- C. Such other and further relief as the Court may deem just, proper, and equitable.

Dated: May 13, 2009

GERSTEN SAVAGE LLP

By: 

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